Case: 1:21-mj-00351
Assigned To : Meriweather, Robin M.
Assign. Date : 4/2/2021
Description: COMPLAINT W/ ARREST WARRANT

STATEMENT OF THE FACTS

Your affiant, [redacted] is a Special Agent assigned to the Federal Bureau of Investigation's ("FBI) Washington Field Office (WFO). Specifically, I am tasked with investigating public corruption and financial fraud investigations. Among other duties, I am currently investigating criminal activity that occurred in and around the U.S. Capitol on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

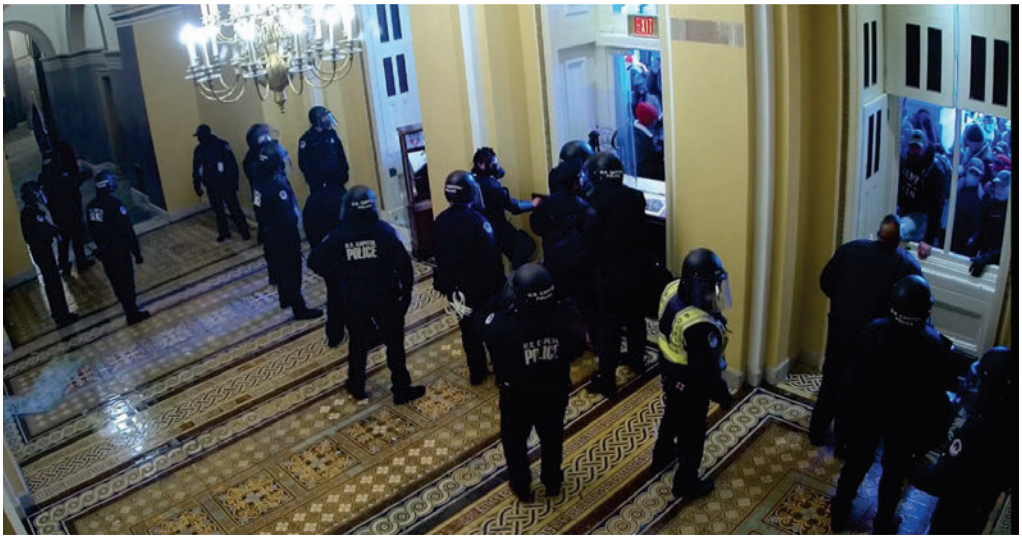
At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there. Photographs and videos of several of these persons were disseminated via social media and other open source online platforms. These persons included a white male, with brown hair, wearing a t-shirt that read "Wild Protest," believed to be Michael Fitzgerald ("FITZGERALD"), known to reside in Wisconsin.

Figure 1

According to video footage, FITZGERALD entered the U.S. Capitol at approximately 2:47 pm on January 6, 2021, through the doors on the Senate side of the building. Prior to his entry, the doors were guarded by law enforcement officers, who monitored the three entryways, as depicted below:

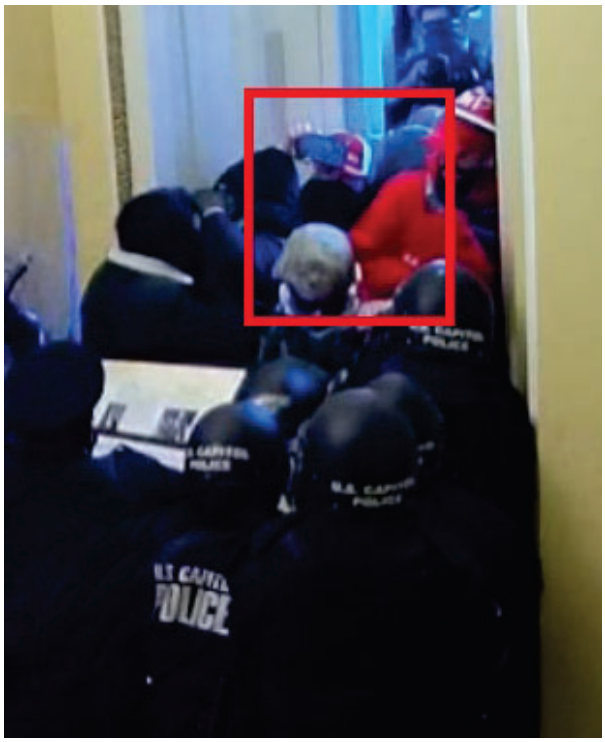


At approximately 2:47 pm, rioters aggressively pushed a podium placed in the middle doorway, which had acted as a barrier between the law enforcement officers and the rioters, against the law enforcement officers. As depicted below, the law enforcement officers struggled to push back against the crowd of rioters:

During the push, which lasted for approximately 1 minute and 20 seconds, video footage depicted rioters punching law enforcement officers, throwing objects at law enforcement officers, and attempting to hit law enforcement officers with a flagpole.

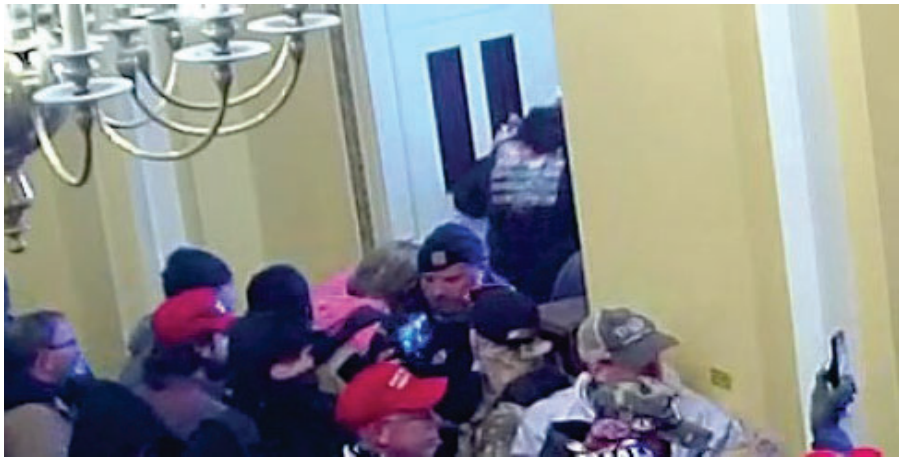
As seen below, highlighted in the red box, FITZGERALD was near the front of the line of rioters, participating in the push against law enforcement officers:

As seen below, highlighted in the red box, as the pushing continued, FITZGERALD raised his right hand to hold his phone in the air:



After 1 minute and 20 seconds, the rioters pushed past the law enforcement officers. As seen below, highlighted in the red box, FITZGERALD continued to use his phone after entering the U.S. Capitol:

FITZGERALD then walked and congregated with other rioters inside the building. FITZGERALD walked towards the Crypt at approximately 3:03 pm. At approximately 3:26 pm, or approximately 40 minutes after his entry, video shows FITZGERALD leaving the Capitol through a window on the Senate side of the building.



Subsequent to January 6, 2021, in an effort to identify individuals who had entered the U.S. Capitol unlawfully, the FBI publicly released a "Seeking Information Bulletins," which included the Figure 1 photograph as Photograph #32 below:

SEEKING INFORMATION
VIOLENCE AT THE UNITED STATES CAPITOL
WASHINGTON, D.C.
JANUARY 06, 2021
ARRESTED
Photograph #31
Photograph #32
Photograph #33
Photograph #34
Photograph #35
Photograph #36-APO
Photograph #37
Photograph #38
Photograph #39
Photograph #40
DETAILS
The Federal Bureau of Investigation's (FBI) Washington Field Office is seeking the public's assistance in identifying individuals who made unlawful entry into the United States Capitol Building on January 6, 2021, in Washington, D.C.
Anyone with information regarding these individuals, or anyone who witnessed any unlawful violent actions at the Capitol or near the area, is asked to contact the FBI's Toll-Free Tipline at 1-800-CALL-FBI (1-800-225-5324) to verbally report tips. You may also submit any information, photos, or videos that could be relevant online at fbi.gov/USCapitol. You may also contact your local FBI office or the nearest American Embassy or Consulate.
Field Office: Washington D.C.
www.fbi.gov

On or about January 8, 2021, a tipster contacted FBI who had reviewed the FBI's "Seeking Information Bulletins" and identified Photograph #32 as FITZGERALD. The tipster confirmed that s/he knew FITZGERALD through employment and provided FITZGERALD's address and phone number.

On or about January 9, 2021, FITZGERALD contacted the FBI. On that same day, FBI agents met with FITZGERALD at his residence in Janesville, Wisconsin. The agents confirmed that FITZGERALD was the person depicted in Photograph #32 of the "Seeking Information Bulletins."

Based on the foregoing, your affiant submits that there is probable cause to believe that FITZGERALD violated 18 U.S.C. §§ 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions.

Your affiant submits there is also probable cause to believe that FITZGERALD violated 40 U.S.C. §§ 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that FITZGERALD violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

[redacted]

Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 2nd day of April 2021.

2021.04.02
14:39:23 -04'00'

ROBIN M. MERIWEATHER
MAGISTRATE JUDGE
FOR THE DISTRICT OF COLUMBIA